



Commissioner for Patents,
US DEPARTMENT OF COMMERCE
US Patent and Trademark Office,
P.O. Box. 1450
Alexandria, Virginia 22313-1450

February 9, 2007

Re: Response to US PTO Communication Application Serial
No.10/672,561, Filed ; sept.29, 2003 For "WATER
STORAGE SUPPLY " Final rejection date mailed:
11/ 30/ 2006; etc.

Honorable Commissioner for Patents,

The Inventor, Gersh Korsinsky, respectfully request using Administrative Power for withdrawal of the final rejections and overturn of the final decisions of the PTO Regarding My Inventions, because this is not appealable matters, by reasons follows:

Clause 8 . The Congress shall have Power*** To promote the Progress of Science and useful Arts, by securing for limited Times Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

This Clause protects Authors and Inventors only. So, patent owners or investors are constitutional not protected.

Because PTO absolutely not responsible of the quality or enforceability of inventions. and absolutely not assistant inventors, and the government absolutely not contribute to the creation of the invention, therefore, an invention absolutely is an intellectual private property matters. and more, charges substantial money for imposed requirements. other than simple search prior of the inventors respective Writings and Discoveries describing arts.

Therefore, an inventor is must be protected and treated, under His Constitutional Right as a private owner of His Intellectual Property, including Free of Speech, as a Discover of the His invention means, and as Author of the His respective Writing of his discovery means and as Author of His arts, etc.

Therefore, after invention published, any requirements other than clean priority that grounds for not issue patents are matters of the automatic confiscation intellectual private property by PTO officer, even not requires any exponent reasons that supports the PTO actions, including examining procedure, and keeping fees paid to PTO, which raising multiple constitution, federal and common laws questions..

PTO designed traps, which overcoming requires from the inventor's qualification to be experienced professional in special field full time occupied lawyer, professional writer, professional expert in language, science and terminology interpretation, full time occupied inventor, have commercial skill, experience and investment materially and timing resources, have money resources for paying PTO substantial fees, etc., for promote the progress of science and useful arts by confiscation intellectual private property (by confiscation invention) are activity is blatant in its intent and pernicious in its effect are must be considered inherently anti-securing to inventors the exclusive Right to their respective Writings and Discoveries, which constitutional securing, and injurious to the public without any need to determine if the PTO activities has actually injured promote the Progress of Science and useful Arts.

PTO Patterns of processing of application for a patent as follows:

First Office action is rejecting the claims by a standard simple statement for lack of adequate written description, objected the specification and drawings with referring to 35 USC and MPEP, advised to PTO approved lawyers. Without description presumed to be adequate as filed, even, not presented any reasonable and sufficient evidence or reasoning to the contrary, to rebut the presumption as basis to challenge the adequacy of the written description. Which, the examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims.

Second Office action is rejecting the claim by a standard simple statement such as "Applicant presented new matters where claim is supported, nor does there appear to be a written description as filed."; After invention was making public.

Next Office actions repeating rejection upon reply by applicant for lack of written prescription, without review the basis for the rejections in view of the record as a whole including arguments and any submitted by applicant;

Language in description of the inventions reasonably capable of being understood in more than one sense subjected to more than one interpretation without ambiguity exists and can be cleared up by extrinsic evidence. Language words without their signification seems doubtful and uncertain to examiners to understand them. Examiner's statement was not supported by providing evidence. Latent of language is to be distinguished unintelligibility and inaccuracy when language does not include uncertainty arising from the

use of peculiar words, or of common words in a peculiar sense. Language is not appears on the face of the instrument, and not arises from the defective, obscure, or insensible language used.

Language in description of the inventions was constitutionally protected as freedom of expression of writings and discoveries from interfering of imposed laws, rules, conditions and policies, and more, requires professional legal assistance.

Description of the inventions was constitutionally protected as freedom of expression of writings and discoveries, and as intellectual personal property from making public, then later under imposed laws, rules, conditions, policies, substantial fees charges and traps schedules paying, and more, requires professional legal assistance; and preventing any future protections.

Useful arts which is a creativeness effort to produce a lawful physical effects was constitutional protected as freedom of expressions of writings and discoveries which is intellectual personal property, and more, requires costly professional services from interfering of imposed laws, rules, conditions, substantial fees charges.

Description of the inventions was constitutional protected as freedom of expression of writings and discoveries; and intellectual personal property from claims, which is a matter of substantial fees charges for each claim; and claims drafting requires very costly legal professional service, define the invention; any feature of an invention not stated in the claim is beyond the scope of patent protection.

The inventions performs at least some functions that is of benefit to society was constitutional protected as "Useful Arts" which as substantial utility that the basic quid pro quo contemplated by the Constitution, and the benefit derived by the public from inventions, which was complete ignored.

The inventions prior jeopardy by examiners was.

Quid pro quo between the government and inventor to making public invention disclosure and charging substantial fees under numbers named charges, and which Constitutional renders it valid and binding was ignored.

The imposed "non obvious" standard for determine of patentability issue of prior art by the level of ordinary skill in the pertinent art was prevented file applications for pioneer inventions or requires filing separate a large number of applications for patents which is cost-prohibitive for a ordinary creative persons, and vulnerable to assumption of risk infringement and obtain a valid patent, by minor engineering modification.

Quid pro quo between the government and inventor to imposing conditions, other than limited period of the exclusive rights to inventor upon expiration of the period originally specified, and charging substantial fees for securing of the exclusive rights to

the inventors, and which Constitutional renders it valid and binding was ignored.

Quid pro quo between government and inventor to imposing conditions of the processing application after making public of the inventions, including substantial fees charges, and which Constitutional renders it valid and binding was ignored.

Imposing conditions of the processing application, including substantial fees charges, after making public of the inventions, prevents obtaining a patent, is a matter of the confiscation of the intellectual personal property.

Imposing substantial fees charges and conditions and requirements for processing application and patents maintenance which requires professional legal services, time, large money sources, etc. limits the creativeness activities by the number and the qualities, which is not can satisfy of the constitutional requirements.

Processing application for a patent under standard "non higher" ingenuity than the work of a mechanic skilled in the art is a matter of the arts ingenuity values decreasing commercialize.

Imposing conditions of the processing applications, including requirement substantial fees charges and trap schedule paying, causes loss of patentability of an invention by abandoning of the application for a patent, then using "non- more ingenuity" than the work of a mechanic skilled art standard to obtain a patent by simple not creative modification by companies like Microsoft staff is blatant in its intent and pernicious in its effect and injurious to the public creativeness activities and future progress of science and useful arts .

Processing applications for a patent is blatant in its intent and pernicious in its commerce policies effect which injurious to the public creativeness activities and to promote progress of science and useful art.

Imposing of the Manual of Patent Examining Procedure (MPEP) which limits or take away of the exclusive rights to inventors subjected to ignoring Constitutional requirements is blatant in its intent and pernicious in its carry out the policy direction of the Secretary of Commerce in its effect has actually injured in encouraging invention by not rewarding creative persons for their innovations.

Establishment the US Patent and Trademark Office and separating copyrights office within the Department of Commerce is blatant in its intent and pernicious in its carry out the policy of the Secretary of Commerce in its effect, must be considered inherently in anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Continuously increased numbers USPTO regulations or rules and amendments, subjected to the policy of the Secretary of Commerce, which must be followed before the USPTO, govern the examiners ,inventors and their attorneys and agents are blatant in its

in its intent and pernicious in its carry out the policy of limiting or take away inventions and keeping substantial fees charges and preventing court actions by inventors, must be considered inherently in anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Director's and other USPTO official Orders, Notices and circulars or instructions giving examiners instructions, information, interpretations, and he like, and other information have been selected for the information of the public, advising what the USPTO will do under circumstances which requires full time professional involvement impossible for ordinary people which is traps an ordinary creative persons to loss inventions and substantial amount of investment are blatant in its intent and pernicious in its effect to carry out policy of limiting or take away inventions and keep substantial fees charges and preventing court actions by creative ordinary persons, must be considered inherently anti-encouraging invention by not rewarding creative ordinary persons for their innovations and injurious to the public.

91% of creative individual persons applications Decisions are not appellatively and very costly and requires professional legal assistant make appeal to the Board of Patent Appeals and Interferences cost- prohibitive worthless for ordinary creative persons is blatant in its intent and pernicious in its effect to carry out policy to limiting or take away inventions and keep substantial fees charges and preventing court actions by inventors, must be considered inherently anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Imposed conditions processing applications for a patent and securing to inventors exclusive right are blatant in its intent and pernicious in its carry out of the Secretary of Commerce polices effect, which injurious to the public creativeness activities and future progress of science and useful arts.

Imposed conditions processing applications for a patent and securing right to inventors are blatant in its intent and pernicious in its carry out protection of the commercial activities from inventor's legal actions by legalization "infringement" by limiting or complete taking away securing to inventors under numbers designed traps, including requires substantial fees charges for securing rights to inventors effect, which future injurious public creativeness activities.

Congress passed statutes and approved Acts, other than limiting of the period upon the expiration of the period originally specified, which limiting or taking away Constitutional rights and protections to inventors may exceed of the Scope of the power which requires Constitutional test by Court.

Congress exceed the scope of its power by not vested by original Constitutional clause, which limited to the duration of the right granted to inventors, which authors also, to legal protect their writings and discoveries from patent infringement only, for promoting science and the useful arts. Patent infringements is natural defined the usefulness of the arts of an invention.

Because Constitutional only the writings and discoveries may be protected, the disclosure of an invention that defined of the invention must be in writing, which cannot be physical entity.

Therefore, Constitution uses the term "discovery" rather than "invention", a protection may granted for the discovery of a hitherto unknown phenomenon of nature as long be disclosed in writing

Because, the written disclosure of a discovery of a unknown phenomenon is contained progress which its progress must be the central purpose of the Constitutional requirements.

Therefore, Constitutional protect-able invention is a mental achievement for an idea that useful physical form be taken in writing.

Therefore, Constitutional uses the terms "discovery" and useful arts for limiting the low level of the standard of the requirements for be protected to satisfy of the constitutional requirements "to promote the progress of science and useful arts..."

Therefore, Court has held that an invention must display "more ingenuity ... than the work of a mechanic skilled in the art", which Congress despite the facts.

Therefore, lowering patentable standard level of an invention is despites the facts that the Congress may exceed its power to lowering of the quality to promote the progress science and useful arts, which is central purpose of the Constitutional protection right to inventors.

Congress Acts of 1952 required an innovation be of a "non-obvious" nature which is alteration of the standard of patentability was perceived as overruling previous Supreme Court cases requiring perhaps a higher for obtain a patent

The only US Court of appeals defined exclusively by its jurisdiction rather than geographical boundaries authorized to uniform rulings in related to patents, commerce and trade cases; and to exclusively qualify Attorneys and Counselors for admission to the Bar of this Court and before USPTO caused a closed inner circle allowing Congress to exceed the scope of the Power of the approved USPTO activities with preventing to become public widely known; caused some blatant type nature in its intent and pernicious in its effect to limiting or take away Constitutional protected exclusive right to inventors ignoring Constitutional requirements, must be considered inherently anti-encouraging invention by not rewarding creative ordinary persons for their innovations and causing loss of their investments including substantial fees charges paid to USPTO, efforts, time etc. ; which is future injured creative persons activities.

Because exclusive rights of inventors constitutional protected, the Court, not government officer, obligation to enforce upon limited times originally established by

Congress as is a common enforcement. Because, an invention is not some owned granted to an individual, therefore, a patent right for an invention which for enforcing exclusive rights cannot be applied legal nature from other types patents, such Land patents or Mining patents by which the government grants public land or property or some privilege of public domain to an individual with conditions.

And Constitutional Standard for patentability and invention infringement matters must be by Court for clarity weighing.

The Constitutional clause is the foundation upon the national patent laws rest, although Acts of the Congress it uses neither of those terms, despite the meanings, the significance and the importance. So, Court must review of the constitutionality of the legislation activities.

Because an invention is a self created private intellectual property of a mental achievement of a combination of arts, discoveries and writings, the right, granted to inventors, are combined authors and inventors rights requires for legal protection them against invention infringement, which are subjected to legal matters enforcement against invention infringement, therefore, judicial decision only must enforce by using and defining of the legal complicated terms of laws rest; and purpose of legislation power may not exceed power limited to duration of the period originally specified of the right granted for carry out promote the progress of science and useful arts only; and purpose of the executive power may not exceed power limited to invention legal recording only.

The patentability and the scope and content of the prior art of the discovery of the Invention constitutionally protected as freedom of expression of writings, discoveries and arts from imposed "obvious" standard, the differences between the prior art and the claims at issue and the top limited level of the creativeness by the level of ordinary skill in the pertinent art, contains "high obvious danger" and "high obvious risk" to lost of the invention in processing of the application for a patent

The patentability and the scope and content of the prior of the discovery under Patent Act requires that an innovation be of a "non-obvious nature" without established and defining of the requirements to the recognizing of the standards of the each of the pertinent arts, and skill and experience of a person having ordinary skill and experience in the pertinent and actually without his review and without providing any report for challenging by inventors, contains "high obvious danger" and "high obvious risk" to lost of the invention in processing of the application for a patent.

Numerous traps from imposed conditions laws, regulations, policies, substantial fees charges, etc. making unpatented inventions during processing applications for a patent, including invention disclosure public, and imposing patent maintenance substantial fees charging during the patent life, as "efficient operation of the federal patent system upon substantially free trade in publicly known unpatented design

and utilitarian conceptions” inner-side the contemplation of the imposed patent scheme; when States are forbidden to do is to “offer protection to intellectual creations which would otherwise remain unprotected as a matter of federal law, and when state law “aimed directly at preventing the exploitation [unpatented] design is invalid as impinging on an area of pervasive federal regulation ; are blatant in its intent and pernicious in its effect must be considered inherently policy anti-encouraging inventions; which is unconstitutional, which unfair victimized inventors that cannot overcome of the imposed conditions; which requires substantial materially resources and professional legal costly services involvement, and which actually injured future promote progress of useful arts, and which are Constitutional goals.

Congressional requirements on patentability after the invention was making public, then, are conditions and tests that must fall within the constitutional standard which by constitutional command must ‘ promote the Progress of .. useful Arts” by encouraging invention by protecting creative persons of their respective writings and discoveries, however, the Court, rather than Congress, must test the satisfy of the Constitutional standard of the securing to inventors as authors also the exclusive right to their writing and discoveries..

The standard of patentability is a constitutional standard, and a the question of the validity of a patent is a question of law for secure protection to inventors exclusive right to their self created without any government contribution of a private intellectual property under general , special and common laws. The function of the Commissioner of PTO in issuing letters patent is deemed not to be quasi-judicial character. Hence an act granting a right of appeal from the Commission to the Court of Appeals which requires costly professional legal services cost-prohibitive for ordinary creative persons not Constitutional as conferring executive power upon a judicial body for high possible risk taking away private self created intellectual property without any government contribution and without just compensation

A inventors right to their filed application for a patent of inventions, particular, after make disclosure of the invention public, however, be subjected, by bill in equity, to payment of a judgment debt of the inventors; or not disclosure invention must be returned to the inventors. *Ager v. Murray*, 105 US 126(1882).

Letters patent for a new invention or discovery in the arts confer upon the patentee an exclusive property in the patented invention which cannot be appropriated or used by the Government without just compensation.

James v. Campell, 104 US 356,358 (1882). *US v. Burna*, 79 US (12 Wall.)246,252 (1871); *Cammeyer v. Newton*, 94 US 225,234 (1877); *Hollister v. Benedict Manufacturing Co.*, 113 US 59,67 (1885); *US v. Palmer*, 128 US 262,271 (1888); *Balknap vCongress* under an existing patent, only can modify provided vested property rights that inventors has granted to others or reinvest in him rights of property that they had previously conveyed. *Bloomer v. Mcquewan*, 55US (How.)539,553(1852).

Because, the rights the present statutes confer are subjected to the antitrust laws, though it can hardly be. Shild, 161 US 10,16 (1896)

said that the cases in which the Court has endeavored to draw the line between the right claimable by inventors and the kind of monopolistic privileges which are forbidden by those acts exhibit entire consistency in their holdings.

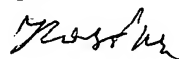
Motion Picture Co. v. Universal Film Co. 243 US 502 (1917); Morton Salt Co. v. Suppiger Co., 314 US 488(1942); US v. Masonite Corp. , 316 Us 265(1942); US v. New Wrinkle , Inc, 842 US 371 (1952); Walker Process Equip. ,Inc. v. Food Mach. & Chem. Corp. , 382 US 172 (1965).

Congress may exceed power by ignoring Constitutional requirements "to promote the Progress of Science and useful Arts..." by refusing in encouraging invention by rewording, even victimizing, creative persons under imposed conditions policies and laws.

Congress may exceed power by forbidding protection right to creative persons for their innovations, which was applied for a patent, which processing application for a patent under imposed conditions, including not timely paid substantial fees charges or penalties, etc, recognized invention not patentable, by outside of federal patent scheme, which are "necessary to promote arts" as an intentional ignoring of the Constitutional requirements.

Dated: February 9, 2007
Brooklyn, New York

Respectfully submitted,



Gersh Korsinsky,
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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/672,561	09/29/2003	Gersh Korsinsky		8839


7590 11/30/2006
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EXAMINER	
PHILLIPS, CHARLES E	
ART UNIT	PAPER NUMBER

3751

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No. 10/672,561	Applicant(s) KORSINSKY ET AL.	
	Examiner Charles E. Phillips	Art Unit 3751	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

Continuation of 11. does NOT place the application in condition for allowance because: applicant alleges in his facts 1-10 that various burdens have not been carried forth by this office but lacks a discussion of any specifics thereof with respect to the claim language employed.

to appeal the final rejection to the Board of Appeals. Applicant can find information on how to perform these matters on the USPTO web site @ www.uspto.gov ; MPEP 1204-1205.


Charles E. Phillips
Primary Examiner